



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Tyriec Fuller,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-447

Lieutenant J. Paul Vance, Commanding Officer, State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police; and State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police,  
Respondent(s)

May 13, 2015

## Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, June 10, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE May 29, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE May 29, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE May 29, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of  
Information Commission

W. Paradis  
Acting Clerk of the Commission

Notice to: Tyriec Fuller  
Stephen R. Sarnoski, Assistant Attorney General

2015-05-13/FIC# 2014-447/Trans/wrbp/CAL/VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Tyriece Fuller,

Complainant

against

Docket #FIC 2014-447

Lieutenant J. Paul Vance, Commanding Officer,  
State of Connecticut, Department of Emergency Services  
And Public Protection, Division of State Police; and  
State of Connecticut, Department of Emergency Services  
And Public Protection, Division of State Police,

Respondents

May 12, 2015

The above-captioned matter was heard as a contested case on April 30, 2015, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. *See* Docket No. CV 03-0826293, Anthony Sinchak v. FOIC, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated June 12, 2014, the complainant made a request to the respondents for copies of: a) police reports for case number 1200310846; b) forensic police reports for case number 1200310846; c) report number 1200310846-00080435; d) police reports and statements of police officers and confidential informants for 7/31/2012 and 6/13/2012 concerning Tyriece Fuller; and e) all arrest warrant affidavits and search warrant affidavits for case number 1200310846 (all together sometimes herein the "requested records").
3. It is found that, by letter dated June 20, 2014, the respondents acknowledged the complainant's June 12, 2014 request.
4. By letter of complaint dated July 2, 2014, and filed on July 14, 2014, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act ("FOIA") by failing to comply with the request described in paragraph 2, above. The

complainant also alleged that he was indigent and requested that copying fees be waived. Further, he requested that the Commission impose civil penalties on the respondents.

5. Section 1-200(5), G.S., provides:

“Public records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours . . . (3) receive a copy of such records in accordance with 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record.”

8. It is found that, to the extent the respondents maintain the records described in paragraph 2, above, such records are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S., unless they are exempt from disclosure.

9. It is found that the respondents checked the Judicial Branch website on July 14, 2014, and determined that six felony charges were pending against the complainant in the Fairfield Superior Court. By letter dated July 15, 2014, the respondents advised the complainant that, because the related law enforcement actions were still pending, the requested case report was not subject to public disclosure pursuant to §1-215, G.S.

10. At the hearing, the respondents introduced as an exhibit copies of printouts from the Judicial Branch website dated November 17, 2014, November 21, 2014, January 23, 2015 and March 9, 2015. Based on this exhibit, it is found that the respondents rechecked the Judicial Branch website on November 17, 2014, November 21, 2014 and January 23, 2015, finding on each occasion that no plea or verdict had been entered concerning the six felony charges pending against the complainant. However, on March 9, 2015, the respondents found that the Judicial Branch website stated that six verdicts of guilty had been entered on July 23, 2014. (The complainant was not sentenced until January 26, 2015.)

11. It is also found that, by letter dated March 24, 2015, the respondents advised the complainant that, upon receipt of the \$16.00 fee set forth at §29-10b, G.S., the requested records would be provided to him with some redactions pursuant to §1-210(b)(3)(A), G.S.

12. It is found that, as of the hearing date, the complainant had not paid the \$16.00 fee for investigative reports set forth at §29-10b, G.S. At the hearing, based upon the balance in his inmate account, the complainant waived his claim that he is indigent and agreed to mail the \$16.00 fee for investigative reports to the respondents forthwith. The respondents specifically declined to waive the \$16.00 fee set forth at §29-10b, G.S. However, contingent upon receipt of the fee, the respondents agreed to mail the requested records with redactions to the complainant by May 8, 2015. The mailing would include an explanatory letter from counsel and a copy of the entire package would be delivered to the hearing officer to be entered as a late filed exhibit.

13. Also at the hearing, the respondents claimed various exemptions as the legal basis for redactions to the requested records: a) the exemption for the identity of informants at §1-210(b)(3)(A), G.S.; b) the exemption of data from the files of the National Crime Information Center ("NCIC"); c) §1-210(b)(18), G.S., (relating to photographs of a firearm from a particular crime); and d) Commission precedent (relating to social security numbers and state I.D. numbers).

14. Moreover, at the hearing, the respondents entered into evidence an email, dated April 7, 2015, from Craig Washington of the Department of Correction stating: "the picture of a firearm from a particular crime ... may cause an issue with the inmate and the victims family who may be incarcerated, especially if the inmate is bragging or showing off what crime he committed.... These acts of behavior are not uncommon.... [w]e have had numerous acts of retaliation from incarcerated family members of victims...."

15. Finally, it is found that, as discussed at the hearing, the respondents on May 8, 2015 transmitted to the Commission an extensive package of the requested records with some redactions, together with an explanatory cover letter. The cover letter stated that redactions were made pursuant to four provisions of the Connecticut statutes and that six categories of records were withheld pursuant to statutory exemption. However, the cover letter did not include any statement as to whether the complainant had paid the \$16 fee or whether a set of the redacted records had been provided to the complainant.

16. It is also found that the respondents' May 8, 2015 cover letter stated that all records have been reviewed with the Department of Correction with reference to §1-210(b)(18). Accordingly, the Commissioner of Correction is highly unlikely to withhold any records in the respondents' May 8, 2015 package if and when the complainant pays the \$16.00 fee for investigative reports set forth at §29-10b, G.S. But because the complainant will not establish any right to receive the records until he pays the fee, the Commission need not adjudicate the claims of exemption herein.

17. It is concluded that the respondents did not violate the FOIA as alleged. Specifically, there was no violation on July 14, 2014, when the complaint was filed, because the relevant

criminal prosecutions were still pending. §1-215, G.S; Commissioner of Public Safety v. Freedom of Information Commission, 312 Conn. 513, 93 A. 3<sup>rd</sup> 1142 (2014).

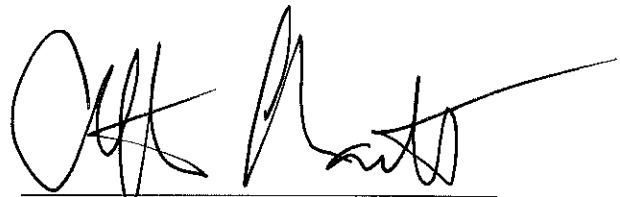
18. Despite the fact that guilty verdicts were subsequently entered against the complainant on July 23, 2014, the respondents had reason to believe, based on the Judicial Branch website, that the criminal prosecutions remained pending at least until January 23, 2015. Shortly after learning on March 9, 2015 that the criminal charges were no longer pending, the respondents advised the complainant by letter dated March 24, 2015 of the \$16.00 fee for investigative reports set forth at §29-10b, G.S.

19. It is concluded that, because the complainant did not pay the \$16 fee up until at least the date of the hearing, there was no violation of the FOIA relating to the June 12, 2014 records request, as alleged in the July 14, 2014 complaint, at least up until this Commission's hearing on April 30, 2015.

20. It is also concluded that there are no grounds for the imposition of civil penalties.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is dismissed.



Clifton A. Leonhardt  
as Hearing Officer